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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Austria, Belgium, Canada, Chile, Croatia, Cyprus, Czech Republic, Finland, France, Germany, Greece, Hungary, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Mongolia, Netherlands, Poland, Republic of Korea, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, Timor-Leste, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Incompatibility between corruption and the full enjoyment of human rights

The General Assembly,

Recalling its resolutions 55/96 of 4 December 2000, 57/221 of 18 December 2002 and 59/201 of 20 December 2004, and bearing in mind Commission on Human Rights resolutions 1999/57 of 27 April 1999,[1] 2000/47 of 25 April 2000,[2] 2001/41 of 23 April 2001,[3] 2002/46 of 23 April 2002,[4] 2003/36 of 23 April 2003,[5] 2004/30 of 19 April 2004,[6] and 2005/68 of 22 April 2005[7] and the United Nations Convention against Corruption,[8]

Reaffirming that the promotion and protection of the full enjoyment of all human rights and fundamental freedoms for all are essential to advance development, peace and security,

[1] See *Official Records of the Economic and Social Council, 1999, Supplement No. 3* (E/1999/23), chap. II, sect. A.
[2] Ibid., *2000, Supplement No. 3* and corrigendum (E/2000/23 and Corr.1), chap. II, sect. A.
[3] Ibid., *2001, Supplement No. 3* (E/2001/23), chap. II, sect. A.
[4] Ibid., *2002, Supplement No. 3* (E/2002/23), chap. II, sect. A.
[5] Ibid., *2003, Supplement No. 3* (E/2003/23), chap. II, sect. A.
[6] Ibid., *2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.
[7] Ibid., *2005, Supplement No. 3* (E/2005/23 (Part I)), chap. II, sect. A.
[8] Resolution 58/4, annex.

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Recognizing the indissoluble link between human rights as enshrined in the Universal Declaration of Human Rights[9] and in the international human rights instruments and the foundation of any democratic society,

Reaffirming that the promotion and protection of human rights is a prerequisite for the existence of a democratic society,

Acknowledging that democracy contributes to the realization of all human rights and that there is a close link between democracy and good governance on the one hand and economic development and poverty alleviation on the other,

Recognizing that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations,

Recalling that the poor are particularly affected by corruption, since corruption often excludes them from access to basic government services,

Recognizing the importance of a conducive environment, at both the national and the international levels, for the full enjoyment of all human rights and of the mutually reinforcing relationship between good governance and human rights,

Reaffirming that good governance, as referred to in the United Nations Millennium Declaration,[10] is among the indispensable factors for building and strengthening peaceful, prosperous and democratic societies,

Recognizing that an independent and impartial judiciary and an independent legal profession are essential prerequisites for good governance and the protection of human rights,

Recognizing also the crucial importance of the active involvement and contribution of civil society in ensuring that good governance practices benefit all people, including members of vulnerable and marginalized groups,

Recalling the outcomes of the 2004 seminar on good governance practices for the promotion of human rights, sponsored by the United Nations Development Programme and the Office of the United Nations High Commissioner for Human Rights, which highlighted, inter alia, the linkages between fighting corruption, respecting human rights and fostering good governance,

Reiterating its concern about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and the values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law, in particular when an inadequate national and international response leads to impunity,

Recalling the Monterrey Consensus of the International Conference on Financing for Development,[11] which underlined that fighting corruption at all levels

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[9] Resolution 217 A (III).

[10] Resolution 55/2.

[11] *Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002* (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex.

is a priority, and the Plan of Implementation of the World Summit on Sustainable Development ("Johannesburg Plan of Implementation"),[12]

Recalling also the Declaration of Nuevo Leon adopted at the Special Summit of the Americas, held at Monterrey, Mexico on 12 and 13 January 2004, in which the democratically elected Heads of State and Government of the Americas pledged to intensify efforts to combat corruption, as well as the Inter-American Convention against Corruption, adopted by the Organization of American States on 29 March 1996,[13]

Recalling further the African Union Convention on Preventing and Combating Corruption, adopted by the Heads of State and Government of the African Union on 12 July 2003, in which States parties agreed to take significant legislative and other measures to combat corruption,

Recalling the Doha Declaration, adopted at the Second South Summit, held at Doha from 12 to 16 June 2005,[14] in which Heads of State and Government of the States members of the Group of 77 and China resolved to take measures to combat corruption, nationally and internationally,

Recalling also the initiatives taken by the Council of Europe against corruption in areas such as standard-setting, guiding principles, technical cooperation and monitoring, in particular the Criminal Law Convention on Corruption adopted by the Committee of Ministers of the Council of Europe on 27 January 1999,[15] and the Civil Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 4 November 1999,[16] as well as activities of the Organization for Security and Cooperation in Europe in this regard,

Welcoming the initiatives taken by the Commonwealth Secretariat and the Group of Eight with regard to fighting corruption and improving transparency, including the initiative of the Group of Eight to support with bilateral technical assistance those countries committed to a partnership to increase transparency, good governance and the rule of law, and welcoming also the efforts of those Member States that have entered into "Compacts to Promote Transparency and Combat Corruption" with the Group of Eight,

1. *Condemns* corruption in all its forms as one of the primary obstacles to economic, social and democratic development and to the full enjoyment of human rights;

2. *Recalls* that the interdependence between a functioning democracy, strong and accountable institutions and effective rule of law is essential for a legitimate and effective Government that is respectful of human rights;

3. *Welcomes* the adoption of the United Nations Convention against Corruption,[8] looks forward to its entry into force on 14 December 2005, and urges all States that have not done so to consider signing and ratifying the Convention;

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[12] *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

[13] See E/1996/99.

[14] A/60/111, annex I.

[15] Council of Europe, *European Treaty Series*, No. 173.

[16] Ibid., No. 174.

4. *Affirms* that the prevention and eradication of corruption is a responsibility of all States and that they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as corporations, civil society, non-governmental organizations and community-based organizations, if their efforts to prevent and combat corruption are to be effective;

5. *Welcomes* the efforts of Member States that have enacted laws and taken other positive measures in the fight against corruption in all its forms, including, inter alia, in accordance with the United Nations Convention against Corruption, and in this regard encourages Member States that have not yet done so to enact such laws and measures;

6. *Encourages* all Governments to strengthen democracy through good governance as referred to in the United Nations Millennium Declaration[19] and the United Nations Convention against Corruption and to prevent, combat and penalize corruption in all its forms by, inter alia:

(a) Consistent with the United Nations Convention against Corruption, abiding by the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and to foster a culture of transparency, accountability and rejection of corruption;

(b) Promoting the independence and integrity of the judiciary and, by means of appropriate education, selection, support and allocation of resources, strengthening its capacity to render justice with fairness and efficiency, free from improper or corrupt outside influence;

(c) Promoting and protecting freedom of expression, freedom of the media, and freedom to seek, receive and impart information in order, inter alia, to improve the transparency of public institutions and policymaking procedures and enhancing the accountability of public officials;

(d) Taking legal, administrative and political measures against corruption, including by ensuring due process of law and guaranteeing the right to a fair trial, and by disclosing, investigating and punishing all those involved in acts of corruption and by criminalizing payment of illegal commissions and bribes to public officials;

(e) Promoting the widest possible public access to information about the activities of national and local authorities, as well as ensuring access by all to administrative remedies, without discrimination;

(f) Fostering high levels of competence, ethics and professionalism within the civil service and its cooperation with the public, inter alia, by providing appropriate training for members of the civil service;

(g) Taking measures to counter corrupt practices in election processes and developing, nurturing and maintaining an electoral system that provides for the free and fair expression of the people's will through genuine and periodic election;

7. *Invites* the relevant special procedures of the Commission on Human Rights, as appropriate, to incorporate into their reports the impact of corruption on the enjoyment of human rights.